

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRADLEY A. WOOTEN,

Plaintiff,

v.

SCOTT HOFTIEZER, WILLIAM B.
KELLEY, TRACY L. THOMPSON,
and BUREAU OF HEALTH
SERVICES,

Defendants.

Case No. 20-CV-124-JPS

ORDER

On January 27, 2020, Plaintiff filed a prisoner complaint alongside a motion to pay the filing fee from his release account and a bare-bones motion for preliminary injunction. (Docket #1, #2, #3). The next day, the Clerk of Court sent Plaintiff a letter informing him that he must either pay the \$400 filing fee, or submit a six-month certified trust account statement within 21 days. (Docket #4). Plaintiff submitted another motion to pay the filing fee from his relief account, (Docket #6), which the Court will deny for the reasons explained below.

“A release account is a restricted account maintained by the Wisconsin Department of Corrections to be used upon the prisoner’s release from custody upon completion of his sentence.” *Wilson v. Anderson*, Case No. 14-C-798, 2014 WL 3671878, at *3 (E.D. Wis. July 23, 2014) (citing Wis. Admin. Code § DOC 309.466). Given the purpose of the release account, federal courts do not deem it prudent to focus on that account as the source of funds to satisfy the full filing fee payment requirements. *Smith v. Huibregtse*, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001). As the Seventh Circuit has instructed, “like any other civil litigant, [a prisoner] must decide

which of [his] legal actions is important enough to fund," *Lindell v. McCallum*, 352 F.3d 1107, 1111 (7th Cir. 2003); thus, if a prisoner concludes that "the limitations on his funds prevent him from prosecuting [a] case with the full vigor he wishes to prosecute it, he is free to choose to dismiss it voluntarily and bring it at a later date." *Williams v. Berge*, No. 02-CV-10, 2002 WL 32350026, at *8 (W.D. Wis. Apr. 30, 2002).

If Plaintiff does not have the \$400.00 filing fee on hand, he must submit a motion to proceed *in forma pauperis* and a copy of his six-month certified trust account statement within 21 days of the date of this Order. The Clerk of Court will determine the appropriate initial partial filing fee. At that point, Plaintiff *may* move to pay this initial partial filing fee using his release account, but he *may not* pay the entire filing fee using his release account.

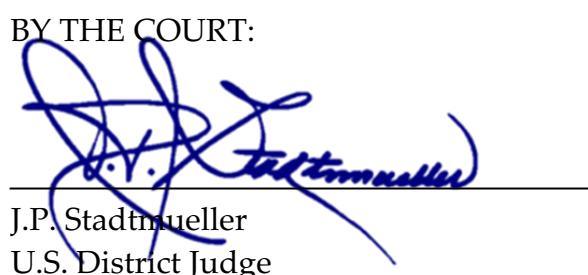
Accordingly,

IT IS ORDERED that Plaintiff's motions to pay the filing fee from his release account statement (Docket #2, #6) be and the same are hereby **DENIED**; and

IT IS FURTHER ORDERED that Plaintiff either pay the \$400.00 filing fee or file a motion to proceed *in forma pauperis*, and include a six-month certified copy of his prisoner trust account statement, within **twenty-one (21) days** of the date of this Order, or the case will be dismissed without further notice.

Dated at Milwaukee, Wisconsin, this 12th day of February, 2020.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge